

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1087 Depopulation of Citizens Property Insurance Corporation

SPONSOR(S): Insurance & Banking Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Peterson	Cooper

SUMMARY ANALYSIS

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company.

By law, Citizens is required to adopt programs to reduce the number of new and renewal policies it writes. The depopulation program, as it is known, encourages insurance companies licensed in Florida to assume policies currently covered by Citizens, thus reducing Citizens' policy count and exposure. During the three-year period beginning January 1, 2012 and ending December 31, 2014, more than 1 million policies insuring properties valued at more than \$300 billion have been taken out of Citizens through the depopulation program.

The Proposed Committee Substitute (PCS) requires a series of reforms to the depopulation program to increase consumer choice; provide consumers and agents with more information regarding takeout offers and standardize the information; and improve consumer satisfaction with the depopulation process.

- *Consumer Choice*
The PCS requires that the consumer, working with the agent of record, be given the option to choose from among competing offers. This applies to takeouts occurring after January 1, 2016.
- *Transparency*
The PCS prohibits any policy from being taken out from Citizens after January 1, 2016 unless the agent of record receives an offer of insurance containing the amount of the estimated renewal premium, the renewal coverage, and a comparison of both the premium and coverage to the premium and coverage of the Citizens renewal policy. The agent is required to communicate the offer to the policyholder. Citizens is directed to develop a uniform format for required communications, which would include information related to premium, coverage, and policies on a takeout company's wish list.
- *Consumer Satisfaction*
Effective July 1, 2015, the PCS allows a consumer to elect not to be solicited for takeout more than once in a six-month period. In addition, the PCS allows a consumer to retain eligibility for Citizens insurance through the Clearinghouse if the insurer increases its initial premium more than 10 percent above its original estimate or increases the rate on the policy more than 10 percent during the 36 months following takeout.

Citizens operates under the direction of a nine-member Board of Governors (board). By law, board members with the required insurance expertise can maintain employment in the private sector in jobs involving business with Citizens without violating the conflict of interest statute because the board member is required by law to have insurance expertise in order to sit on the board. There is also a consumer representative on the board that is appointed by the Governor. The PCS provides the consumer representative on the Citizens' board with the same exemption from the conflict of interest statute as that provided in current law to the board members with insurance expertise.

The bill has no fiscal impact on state or local government expenditures and should have a positive impact on the private sector. The bill is effective July 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcs1087.IBS

DATE: 3/23/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company.

As of March 12, 2015, Citizens is the largest property insurer in Florida with over 630,000 policies extending approximately \$197 billion of property coverage to Floridians.¹ Citizens insures over 278,000 residential and commercial policies in Florida's coastal areas and over 350,000 residential policies in Florida's non-coastal areas. The remaining policies are commercial policies insured in Florida's non-coastal areas.

Citizens was created in 2002 when the Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) and the Florida Windstorm Underwriting Association (FWUA). The FRPCJUA provided full-coverage personal and commercial residential property policies in all counties of Florida, while the FWUA provided personal and commercial residential property wind-only coverage in designated territories.

Citizens writes property insurance in three separate accounts:²

- Personal Lines Account – personal residential³ multiperil⁴ policies
 - With wind coverage, on properties located outside the Coastal Account area; and
 - Without wind coverage, on properties located within the Coastal Account Area.
- Commercial Lines Account – commercial residential⁵ and commercial non-residential policies
 - With wind coverage, on properties located outside the Coastal Account area; and
 - Without wind coverage, on properties located within the Coastal Account Area.
- Coastal Account – personal residential, commercial residential, and commercial non-residential wind-only⁶ and multiperil policies⁷ for properties in limited eligible coastal areas.⁸

At the time of its creation, Citizens handled approximately 602,000 policies. The policy count peaked in November 2012 at nearly 1.5 million—about 26% of the Florida residential market.⁹ Factors that drove the increase included the catastrophic hurricane season of 2004-2005;¹⁰ subsequent changes in law authorizing broader coverage and expanded eligibility for Citizens coverage (thereby placing it in more direct competition with the voluntary market)¹¹ and granting agents and policyholders greater control in

¹ CITIZENS PROPERTY INSURANCE CORPORATION, *Book of Business: Policies in Force*, <https://www.citizensfla.com/about/bookofbusiness/> (last viewed March 20, 2015).

² s. 627.351(6)(b)2., F.S.

³ Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

⁴ A multiperil policy is defined as a package policy, such as a homeowners or business insurance policy that provides coverage against several different perils. It also refers to the combination of property and liability coverage in one policy. Multiperil property insurance policies may include coverage for damage from windstorm and from other perils, such as fire, theft, and liability.

⁵ Commercial residential policies include condominium association, apartment building, homeowner's association policies

⁶ A wind-only policy is a property insurance policy that provides coverage against windstorm damage only. Coverage against non-windstorm events such as fire, theft, and liability are available in a separate policy.

⁷ Effective July 1, 2014, Citizens may no longer offer new commercial residential policies providing multiperil coverage, but may continue to renew existing policies. (s. 627.351(6)(b)2.a.(III), F.S.)

⁸ These include areas eligible for coverage by the FWUA as those areas were defined on January 1, 2002. (s. 627.351(6)(a)2., F.S.)

⁹ CITIZENS PROPERTY INSURANCE CORPORATION, *Press Release: How low can it go? Citizens is at its smallest since its creation in 2002* (March 18, 2015) (on file with the House Insurance & Banking Subcommittee).

¹⁰ Four hurricanes hit Florida in each year resulting in \$39 billion in estimated gross losses.

¹¹ FLORIDA HOUSE OF REPRESENTATIVES, *Staff Analysis HB 7077, 7* (March 26, 2007), available at <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=36814> (last visited March 20, 2015).

programs implemented by Citizens to reduce its policy count; and a court order requiring Citizens to assume policies from three insolvent companies.

Citizens Property Insurance Depopulation

History¹²

By law, Citizens is required to adopt programs to reduce the number of insured properties and to decrease its financial exposure.¹³ The depopulation program, as it is known, encourages insurance companies licensed in Florida to assume policies currently covered by Citizens, thus reducing Citizens' policy count and exposure.¹⁴

Initially, the Citizens depopulation program paid insurers either dollar amount or percentage bonuses for the removal of policies. The bonus program ended in 2006, however, when the Legislature restricted the bonus amount to \$100 per policy and required the insurer to renew the policy for at least five years. The Legislature has adopted two additional reforms affecting depopulation. In 2007, it permitted policyholders to remain eligible for coverage with Citizens, even if they received an offer of coverage from another insurer. A policyholder remains eligible for coverage through the end of the assumption period, which enables the policyholder, in effect, to "opt-out" of any assumption.¹⁵ The 2007 Legislature also clarified the authority of a policyholder to retain his or her agent regardless of any takeout offer.¹⁶ An agent must be appointed by the insurer for the insurer to assume a policy. If a policyholder's agent declines appointment, the policy cannot be assumed.

The depopulation programs for personal and commercial residential policies in place now were adopted by the Citizens board and approved by the Office of Insurance Regulation (OIR) in 2008.¹⁷ A program for commercial nonresidential was adopted in 2012. All programs are non-bonus and specify the number of policies an insurer must takeout during the contract period and require the insurer to retain the policy for a minimum of three years. To create further incentive for insurers to participate in the program, Citizens revised the plans in 2012 to remove the requirement that insurers pay Citizens the 16% ceding commission.¹⁸

The following reflects the history of policies removed since 2003.

Citizens Depopulation Policy Types and Exposure Removed (2003 – to present*)						
	PLA PRM	Coastal PRM	Coastal PRW	CLA CRM	Coastal CNRW, CRW	Total # of Policies

¹² CITIZENS PROPERTY INSURANCE CORPORATION, *History of Depopulation* (Feb. 2012), available at https://www.citizensfla.com/about/mDetails_boardmtgs.cfm?show=PDF&link=bnc_meet/docs/431/01A_Historical_Report_of_Depopulation_Activity.pdf&event=431&when=Past (last visited March 20, 2015).

¹³ s. 627.351(q)3.a., F.S.

¹⁴ See generally s. 627.3511, F.S.

¹⁵ See ch. 2007-90, s. 11, Laws of Fla.; s. 627.351(6)(c)5., F.S.

¹⁶ See ch. 2007-90, s. 14, Laws of Fla.; s. 627.3517, F.S.

¹⁷ The OIR has responsibility for the financial oversight and regulation of assumptions and the approval of new insurers to assume policies.

¹⁸ A fee charged by a reinsurance company to the original issuer of a policy or group of policies being ceded to the reinsurer to cover business and administrative costs and a percentage of the profits from the premiums collected. INVESTORWORDS, *Ceding Commission* http://www.investorwords.com/19018/ceding_commission.html (last visited March 20, 2015).

Year	# of Policies	Exposure Removed					
2003	28,219		-			28,219	\$ 8,140,681,906
2004	145,959		12,457			158,416	\$ 30,663,076,480
2005	218,128		75,556			293,684	\$ 53,658,840,059
2006	26,225		41,628			67,853	\$ 15,637,589,369
2007	247,887		-			247,887	\$ 68,259,426,361
2008	362,964	21,519	-	601		385,084	\$ 106,870,490,165
2009	132,803	16,842	-	-		149,645	\$ 37,784,506,743
2010	57,561	2,231	-	-		59,792	\$ 13,888,913,857
2011	45,827	7,750	-	-		53,577	\$ 14,473,700,490
2012	252,968	24,034	-	-		277,002	\$ 75,927,165,347
2013	301,383	37,368	19,567	-	7,449	365,767	\$ 112,265,410,122
2014	323,167	44,779	43,686	2,493	2,498	416,623	\$ 117,530,082,371
*2015	66,785	14,867	13,368	387	-	95,407	\$ 19,186,004,850
TOTAL	2,209,876	169,390	206,262	3,481	9,947	2,598,956	\$ 674,285,888,120

*As of February 19, 2015

Procedure

The depopulation programs are administered on a monthly cycle according to the following sequence of events:

- The OIR issues a consent order approving authorized admitted carriers to participate in a specific assumption.¹⁹
- Citizens provides a data file of policies in force to an approved carrier (takeout company or TOC) to use to select policies for assumption.
- The TOC solicits new agent appointments or notifies appointed agents if the TOC wishes to assume any of an agent's policies.²⁰
- The TOC provides Citizens with the list of policies it has selected to assume and a list of policies assigned to agents who did not respond to the TOC's solicitation or declined to be appointed.
- Citizens reviews the takeout lists of the participating TOCs and sends each TOC the policy selections it is assigned to assume. If more than one TOC has selected the same policy for removal, Citizens uses an algorithm²¹ to assign the duplicate selections.
- Each TOC reviews and may reweight²² its list. The TOC sends the reweighted list to Citizens.
- Citizens then sends a letter of encouragement²³ to all policyholders on a TOC's final mailing list and notifies those policyholders whose agents did not respond to the TOCs solicitation or declined to be appointed.
- The TOC then sends a letter in a form approved by the OIR to policyholders indicating that the TOC is extending an offer to assume the policyholder's coverage and notifying the policyholder

¹⁹ To assume policies from Citizens, admitted carriers must submit documentation to the OIR verifying that they meet required standards and have the financial resources and business plan in place to properly pay claims.

²⁰ Agents are not required to contact the policyholder regarding the offer and are not permitted to opt out of an assumption on the policyholder's behalf.

²¹ The depopulation algorithm attempts to allocate the policies to the various takeout companies by a methodology that groups the duplicates based on the number of companies that has selected them; sorts the policies within each batch by policy form, zip code, and total premium; and assigns each policy to one of the TOCs that has selected it in a way that equitably allocates premium among the companies. (CITIZENS PROPERTY INSURANCE COMPANY, *Depopulation Algorithm Allocation* (Nov. 15, 2013), available at <https://www.citizensfla.com/about/depoinfo.cfm?type=links&show=pdf&link=/shared/depop/documents/AlgorithmAllocationExplanation.pdf> (last visited March 20, 2015).

²² If the list does not have a desirable ratio of policies, for example is too heavily weighted in one geographic area, the TOC may remove policies from the list. This process is called re-weighting.

²³ Prior to February 2015, Citizens sent the letter of encouragement after the TOC had sent its offer letter. When some policyholders received the offer letter, they discarded the letter without reading it, since the letter was not from a person or company familiar to the policyholder. In other cases, the policyholder may have read the TOC letter, but not understood the significance of the opt out requirement. As a result, Citizens changed the timing of its letter of encouragement..

of the right to reject or opt out of the offer. The letter may include a link to a coverage comparison chart on the TOC's website.

A policyholder selected for a takeout does not need to take any additional action to be assumed by the takeout company. If the policyholder takes no action, the policyholder and the policyholder's mortgage company, if any, will receive a Notice of Assumption and Nonrenewal and Certificate of Assumption verifying that the policy has been assumed by the takeout company and that the takeout company will make a renewal offer before the current policy expires. Currently, 59 percent of private-market offers are accepted for takeout.

A policyholder who wishes to remain with Citizens must take action to opt out of the assumption by returning the opt out form provided with the takeout offer to the TOC. A policyholder has 30 days prior to and following an assumption to complete the opt out process.

A Citizens policy that is assumed by a TOC is, as of the date of assumption, direct insurance issued by the TOC. The TOC is liable to pay any claims that may arise, although Citizens continues to service the policy. During the period before the policy expires, Citizens pays to the TOC unearned premiums on the policy that it has received adjusted to reflect any changes in coverage or conditions as may occur during the period. Forty-five days before the Citizens policy expires, the TOC issues the initial offer on renewal coverage with the premium amount. At this time (or any time after the assumption and prior to the policy's expiration) the policyholder may return to Citizens, unless the Clearinghouse presents an offer of coverage with a premium equal to or less than the Citizens renewal premium.²⁴

The TOC is required to offer renewals with substantially similar coverage as the assumed policies. The TOC's renewal rate must be filed and approved by the OIR and may be higher than what Citizens charged for the assumed policy. Citizens encourages TOCs "to assume policies for which the renewal rate is expected to be at or lower than the [Citizens] rate; thereby increasing insured participation in the assumption."²⁵

Consumer Complaints²⁶

In 2014, 595,738 takeout offer letters were mailed to consumers. During the same time period Citizens received 10,195 depopulation related phone calls from consumers, 242 written complaints and 1,072 written inquiries (not expressing dissatisfaction, which is the statutory definition of a complaint). The result is a total of 11,510 consumer contacts in response to 595,738 offers mailed. This represents less than a 2% complaint/inquiry ratio on the takeout offers made.

Depopulation Work Group

In December 2014, Citizens established a depopulation work group as one of a series of changes to the depopulation program to provide policyholders with more information in deciding whether to accept a TOC offer or to remain with Citizens. The work group includes representatives from the OIR, insurance agents, private insurers, and consumer advocates. In its preliminary meeting, the work group discussed options for increasing consumer choice, providing consumers and agents with more

²⁴ CITIZENS PROPERTY INSURANCE CORPORATION, *Agent Technical Bulletin: New Process for Returning a Risk to Citizens After Assumption/Depopulation/Takeout*, ATB # 014-14 (September 16, 2014), available at https://www.citizensfla.com/agent/ac_techbulletins.cfm?show=pdf&year=2014&link=/shared/IE/IE002-14.pdf (last visited March 21, 2015).

²⁵ CITIZENS PROPERTY INSURANCE CORPORATION, *Depopulation Guide for Takeout Companies*, (Feb. 20, 2013) (on file with the House Insurance & Banking Subcommittee).

²⁶ E-mail from Christine Turner Ashburn, Vice President for Communications, Legislative and External Affairs, Citizens Property Insurance Corporation, RE: Takeout complaints (March 18, 2015) (on file with the House Insurance & Banking Subcommittee).

information regarding takeout offers and standardizing the information; and improving consumer satisfaction.

The Impact of the Proposed Committee Substitute (PCS) on Depopulation

The PCS requires Citizens to revise the depopulation program to address a series of issues identified by the work group and others which are aimed at maximizing the free market principles of competition and consumer choice and encouraging full participation by insurers, policyholders, and agents.

- *Transparency*

Currently, TOCs are required to provide consumers with information about the premium amount, but may do so either by including the estimate in the takeout letter or providing the consumer with a telephone number to call for more information. Coverage information is made available through links to the OIR website. Currently, the information TOCs provide to agents about policies they may wish to assume is not provided in a standard format.

The PCS prohibits any policy from being taken out from Citizens after January 1, 2016 unless the agent of record receives an offer of insurance containing the amount of the estimated renewal premium, the renewal coverage, and a comparison of both the premium and coverage to the premium and coverage of the Citizens renewal policy. The agent is required to communicate the offer to the policyholder. Citizens is directed to develop a uniform format for required communications, which would include information related to premium, coverage, and policies on a TOC's wish list.

- *Consumer Choice*

Currently, a consumer is not given the opportunity to choose from among TOCs when more than one has indicated an interest in assuming the consumer's policy. Instead, Citizens assigns the policy to one TOC using an algorithm and only that company solicits the consumer.

The PCS requires that the consumer, working with the agent of record, be given the option to choose from among competing offers. This applies to takeouts occurring after January 1, 2016.

- *Consumer Satisfaction*

Because the depopulation process cycles each month, a single policyholder may receive more than one offer from different companies in any given year. This can be confusing and can result in "takeout fatigue," thereby reducing the chances that a consumer who has opted out once will accept a subsequent takeout offer. In addition, some reported takeout offers are substantially higher than Citizens renewal rates. A consumer who fails to opt out, particularly a consumer whose insurance is paid from escrow by a mortgage holder, may lose Citizens coverage and incur substantial costs for some period of time before realizing the full consequences of what has happened.

Effective July 1, 2015, the PCS allows a consumer to elect not to be solicited for takeout more than once in a six-month period. In addition, the PCS allows a consumer to retain eligibility for Citizens insurance through the Clearinghouse if the insurer increases its initial premium more than 10 percent above its original estimate or increases the rate on the policy more than 10 percent during the 36 months following takeout.

Board of Governors of Citizens Property Insurance Corporation

Citizens operates under the direction of a nine member Board of Governors (board). The board members are not Citizens' employees and are not paid. The Governor, Chief Financial Officer, Senate President, and Speaker of the House of Representatives each appoint two members of the board, with one member appointed chair by the Chief Financial Officer. Board members serve three year staggered terms.

At least one of the two board members appointed by each appointing officer must have demonstrated expertise in insurance. By law, board members with the required insurance expertise fall within the exemption in the conflicting employment or contractual relationship statute that applies to public officers and agency employees.²⁷ Thus, these board members can maintain employment in the private sector in jobs involving business with Citizens without violating the conflict of interest statute because the board member is required by law to have insurance expertise in order to sit on the board.

There is also a consumer representative on the board that is appointed by the Governor.

The Impact of the PCS on the Composition of the Citizens Board

The PCS provides the consumer representative on the Citizens' board with the same exemption from the conflicting employment or contractual relationship statute for public officers and agency employees as that provided in current law to the board members with insurance expertise.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.351, F.S., relating to insurance risk apportionment plans.

Section 2: Provides an effective date of July 1, 2015

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provision in the PCS that allows properties to remain eligible for Citizens coverage if a TOC increases its initial premium more than 10% above its original estimate or increases its rate more than 10% during the 36 months after takeout will limit the risk of consumers experiencing substantial and unanticipated rate increases in their insurance coverage.

D. FISCAL COMMENTS:

None.

²⁷ Board members of Citizens fall under the definition of "public officer" in s. 112.313(1), F.S., because that definition includes any person appointed to hold office in any agency, including serving on an advisory board. "Agency" is defined in s. 112.312, F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The PCS does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES